



United States Department of the Interior

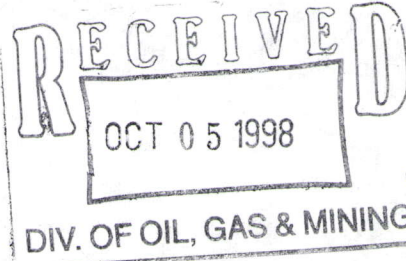
BUREAU OF LAND MANAGEMENT FILLMORE FIELD OFFICE

35 East 500 North
Fillmore, UT 84631
<http://enbb.blm.interwebdesign.com>



5/23/033

0004



IN REPLY REFER TO:
3715
(UT-010)
UTU-072898

October 1, 1998

CERTIFIED MAIL # Z 777 471 378
RETURN RECEIPT REQUESTED

DECISION

Robert Steele	:	43 CFR §3715
1055 N 400 E	:	Permanent Cessation Order
Nephi, UT 84648	:	

Permanent Cessation Order for Failure to Comply with a 43 CFR §3715 Notice of Noncompliance

A field compliance inspection of your operation located in the NW $\frac{1}{4}$ NE $\frac{1}{4}$ Sec. 5, T. 12 S., R. 6 W., SLBM, Millard County, Utah, was conducted on August 31, 1998. A second field compliance inspection of this operation was conducted on September 25, 1998. These inspections showed the continued presence of a travel trailer at the site of your operation. This is in direct violation of one of the corrective measures listed in the 43 CFR §3715.7-1(c) Notice of Noncompliance dated July 21, 1998.

In addition, this office has not received the documentation as required by 43 CFR §3715 nor have you contacted this office for the consultation required by 43 CFR §3715. Both of these were also corrective measures listed in the 43 CFR §3715 Notice of Noncompliance.

The specific regulations that you are in violation of are:

1. 43 CFR 3715.2(a) - Those activities that are the reason for your occupancy must be reasonably incident.
2. 43 CFR 3715.3 - Before beginning occupancy, you must consult with BLM about the requirements of this subpart.
3. 43 CFR 3715.3-1(a) - You must not begin occupancy until you have complied with either 43 CFR part 3800, subpart 3802 or 3809 and this subpart, and BLM has completed its review and made the required determinations under the applicable subparts.

4. 43 CFR 3715.3-1(b) - You must not begin occupancy until you have obtained all federal, state and local mining, reclamation, and waste disposal permits, approvals, or other authorizations for the particular use or occupancy as required under this subpart.
5. 43 CFR 3715.3-2 - You must give BLM a detailed map that identifies the site and the placement of the items specified in paragraphs (c), (d), and (e) of this section, and a written description of the proposed occupancy that describes in detail:
 - (a) How the proposed occupancy is reasonably incident;
 - (b) How the proposed occupancy meets the conditions specified in §3715.2 and §3715.2-1;
 - (c) Where you will place temporary or permanent structures for occupancy;
 - ...
 - (f) The estimated period of use of the structures ..., as well as the schedule for removal and reclamation when operations end.

To correct this situation, you must within 15 days of the receipt of this Notice of Noncompliance permanently cease your occupancy. To do this you must permanently remove your trailer from the public lands.

Failure to comply with the above step may result in fines, or imprisonment or both.

Please note, that if mining operations cease for 90 days or more, storage of equipment or ancillary facilities on site is considered to be an occupancy. Authorization must be obtained prior to commencement of the occupancy.

A copy of the 43 CFR §3715 regulations have been enclosed for your convenience.

This decision may be appealed to the Interior Board of Land Appeals, Office of the Secretary, in accordance with the regulations contained in 43 CFR, Part 4 and the enclosed Form 1842-1. If an appeal is taken, your notice of appeal must be filed in this office (at the above address) within 30 days from receipt of this decision. The appellant has the burden of showing that the decision appealed from is in error.

If you wish to file a petition pursuant to regulation 43 CFR 4.21 (58 FR 4939, January 19, 1993) or 43 CFR 2804.1 for a stay of the effectiveness of this decision during the time that your appeal is being reviewed by the Board, the petition for a stay must accompany your notice of appeal. A petition for a stay is required to show sufficient justification based on the standards listed below. Copies of the notice of appeal and petition for a stay **must** also be submitted to each party named in this decision and to the Interior Board of Land Appeals and to the appropriate Office of the Solicitor (see 43 CFR

4.413) at the same time the original documents are filed with this office. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

Standards for Obtaining a Stay

Except as otherwise provided by law or other pertinent regulation, a petition for a stay of a decision pending appeal shall show sufficient justification based on the following standards:

- (1) The relative harm to the parties if the stay is granted or denied,
- (2) The likelihood of the appellant's success on the merits,
- (3) The likelihood of immediate and irreparable harm if the stay is not granted, and
- (4) Whether the public interest favors granting the stay.

If you have any questions regarding this notice of noncompliance please call Ron Teseneer at 435-743-3126.

Sincerely,

Rex Rowley
Field Manager

2 Enclosures

- 1 - 43 CFR 3715 Regulations (14 p.)
- 2 - Form 1842-1 - Information on Taking Appeals to the Board of Land Appeals (2 p.)

cc: Terry Steele, 296 N Center, Santaquin, UT 84655

bcc: U-931

U-050

D. Wayne Hedberg, UDOGM